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SPECIAL COMMITTEE ON PEACE-KEEPING
OPERATIONS

COMPREHENSIVE REVIEW OF THE WHOLE QUESTION OF PEACE-KEEPING OPERATIONS IN ALL THEIR ASPECTS

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[Original: English]

[13 April 1993]

Introduction

1. Since the extraordinary session of the Special Committee on Peace-keeping Operations held in August 1992 to consider the report of the Secretary-General entitled "An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping" (A/47/27-S/24111), the growth in the number, scale and complexity of peace-keeping operations has continued unabated.

2. Peace-keeping operations as traditionally understood continue to undergo rapid conceptual and practical change in response to the many new threats to international peace and security. While in many instances traditional peace-keeping operations will remain viable and appropriate, peace-keeping has now often moved beyond its traditional functions of monitoring, observing, reporting and supervising agreements and cease-fire lines. Missions are now likely to be multifaceted with the peace-keeping component operating alongside and in support of components responsible for political development and reconciliation, elections or referendums, humanitarian aid and relief or economic reconstruction and development. Several major proposals in "An Agenda for Peace" have been or very shortly will be implemented. A preventive deployment of peace-keepers has taken place in Macedonia and a peace enforcement operation, UNOSOM II, is now mandated by the Security Council.

The challenge

3. Peace-keeping operations must be operationally effective in order to meet the purposes for which they are established. They must be efficient in carrying out their mandate as the resources of the United Nations and Member States are finite. Inefficient use of human, material and financial resources will impair operational effectiveness. The challenge of effectiveness and efficiency has been brought into sharper focus through the pressures created by the increased number, scope and complexity of operations. These tremendous increases have placed a severe strain on the Secretariat, both organizationally and financially.

4. A further development, positive and most welcome, is the considerable expansion in the number of Member States participating. Understandably the contingents provided by Member States vary as to unit structure, equipment, support systems, training and doctrine. These contingents must be brought together, frequently with very little notice, and integrated into a cohesive and well-coordinated team. How to ensure the individual contingents function well together in a short period of time constitutes another element of the challenge. The Special Committee on Peace-keeping Operations has put forward many sound proposals to enhance effectiveness and efficiency, in both the field and the Secretariat, in the planning, mounting, deployment, command and maintenance of peace-keeping operations. It must continue to do so.

Review of initiatives currently under way

Reserve Fund

5. A Reserve Fund to assist in the financing of peace-keeping operation start-up costs has been established by General Assembly resolution 47/217 of 23 December 1992. Canada believes that this is a necessary and timely initiative which will contribute in a very effective manner to meeting the immediate initial expenses of operations. Use of the Fund to acquire critical equipment needed at the start of operations should be initiated. Such use of the Reserve Fund would save on costs, enhance readiness and enable more timely deployment of missions. Such an application of the Fund would contribute to its aim of rapid response of the Organization to the needs of peace-keeping operations.

Civilian police adviser

6. A civilian police adviser has been selected to fill this important post in the Secretariat. We look forward to the adviser taking up these duties as soon as possible.

Protection of peace-keeping personnel

7. Canada supports the efforts of Member States in the General Assembly and Security Council calling for measures to strengthen the protection of peace-keeping personnel. It is the obligation and duty of all Member States, particularly host States, to take all steps necessary to guarantee the safety and security of personnel. The United Nations should enhance its ability to receive from a variety of sources and analyse all information pertinent to the security of troops in the field and to transmit such information in very short order to the units affected. Such information can and does save lives.

United Nations Stand-by Forces for Peace-keeping Study Team

8. As a follow-up to the questionnaire to Member States on resources available for peace-keeping, the Secretary-General has established a study team to identify the types of unit building blocks (infantry, aviation, logistic, observers, etc.) required for various operations. The team will also develop model memoranda of understanding which then may be used to establish commitments between Member States and the United Nations on what resources may be made available for peace-keeping. (Canada has already advised the Secretary-General of resources which it will hold in readiness for operations.) The study currently under way will provide much-needed guidelines on the types of unit required and may also provide findings which may be applied to updating the "Notes for Guidance of Troop Contributors" for specific missions. Canada is pleased to be contributing a logistics expert to the Stand-by Forces Study Team.

Logistics concepts, doctrine and standard operating procedures project

9. This project, recommended to the Special Committee on Peace-keeping Operations in April 1992, has been taken up by the Secretariat and a project team began preliminary work this March. This project, for which Canada has provided the project director, an administrative officer and administrative

support, will address the need for a compendium of standardized logistics doctrine and procedures for use by peace-keeping missions and the Secretariat. It will look upon logistics support as a continuum from the field to the Secretariat and back to the field.

Enhancement of the capability of the Department of Peace-keeping Operations and Field Operations Division

10. Steps have been taken to address the critical need for additional staff in the Secretariat departments and divisions responsible for peace-keeping operations. A significant increase in these staffs is justified given their vastly expanded workload. Canada supports efforts to obtain additional staff for peak periods. Such additional staff should be made available for longer periods than has often been the practice, e.g. one to two years versus three to six months, in order to ensure coherence, cohesiveness and continuity.

11. A situation room is being established within the Department of Peace-keeping Operations. We commend the Secretariat for taking this step. A situation room will provide for more effective command and control structures and also for enhanced coordination between the Secretariat and field missions. It will also enhance the Secretariat's ability to inform and brief troop contributors on the circumstances of their contingents.

Proposals for further development and enhancement

Preventive diplomacy - the need for information and analysis

12. There is a critical need for an information and analysis capability within the Secretariat. Preventive diplomacy can be more successfully undertaken if developing trends in mass migration of populations, agriculture conditions, the environment, the global economy and potential conflicts can be identified and addressed before they have become actual threats to international peace and security. Much of the information needed is readily available from Member States, through public sources and from United Nations agencies. Such information needs to be analysed and drawn from as wide a range of sources as possible to maximize its usefulness.

Medical planning - a focal point

13. Canada believes that a medical adviser should be added to the staff of the Military Adviser to provide a dedicated focal point in the Secretariat for planning, reviewing and monitoring the medical equipment and staff requirements to support peace-keeping personnel. A critical factor for all troop-contributing nations in assessing the possible deployment of their personnel to peace-keeping operations is the availability and quality of medical support.

Geographic (mapping and charting) support

14. The capability of the Secretariat to provide geographic support, that is, the provision of maps and charts to peace-keeping operations, should be improved. Agreements between troop contributors already exist in many

instances. Such agreements are generally cost-effective, responsive and avoid duplication of effort. However, coordination by the Secretariat in determining map sources and availability, the appropriate series and scales required and coordinating printing and in-area distribution would enhance geographic support. Canada is willing to assist in formation of a geographic support cell.

Training

15. The development of means to make available a basic level of peace-keeping training to all troop contributors is required. Canada commends the efforts of the Military Adviser, the United Nations Institute for Training and Research and some Member States to develop training packages, particularly those which may be used with troop-contributing Member States. Training guidelines for specialized civilian units such as electoral officials and civilian police are also required. Canada advocates the utilization of the money received from the 1988 Nobel Peace Prize for the creation of a trust fund to finance peace-keeping fellowships. Canada invites the Secretary-General to report on this proposal at the forty-eighth session of the General Assembly.

Matériel readiness

16. Readiness for peace-keeping operations requires not only prior planning but the ready availability of critical equipment essential to the start-up of operations. The stockpiling of matériel required immediately upon deployment of peace-keeping operations should be undertaken. Acquisition of matériel such as vehicles, communications equipment, tentage, prefabricated shelters, material-handling equipment, storage aids and ADP equipment could be effected in such a fashion so as to enhance readiness and also equipment standardization in the interests of contingent interoperability.

Public affairs

17. To be successful and sustainable, peace-keeping requires the support of the public. Consequently, a proactive approach needs to be taken by the Secretariat and the field missions in the area of public information. Too often it has only been a set-back or negative incident which receives media, and hence public, attention. The United Nations is often reduced to merely a reactive role in response to negative developments in the field. The mandate, responsibilities and activities of each operation must be publicized in order that affected populations, the media and our own populations may establish informed views on United Nations activities. The United Nations story needs to get out more clearly.

Concluding remarks

18. The valuable current initiatives of the Secretary-General reviewed above and further proposals by States Members of the United Nations will help to meet the need for all peace-keeping operations to be efficient and effective and broadly supported. The practices, procedures and actions recommended will assist national contingents to function together in a highly effective and cohesive manner within a shorter period of time than would otherwise be possible. Much work has been done, significant progress has been made, but much remains to be done.

YUGOSLAVIA

[Original: English]

[31 March 1993]

We would like to take this opportunity to reiterate that the Federal Republic of Yugoslavia has always highly appreciated and supported, and will continue to do so, the United Nations role in strengthening international peace and security under the Charter of the United Nations and its ongoing peace-keeping operations, including in the territory of the former Yugoslavia. In this context, we draw attention to some important questions relating to a more effective and rational performance of this role.

1. In paragraph 24 of resolution 47/71 of 14 December 1992, the General Assembly urges Governments of host countries to provide the greatest possible logistic and material support for peace-keeping operations.

In this respect, we wish to stress that since the establishment of the United Nations Protection Force (UNPROFOR), Yugoslavia has endeavoured to reduce, by its contribution, the cost of this United Nations peace-keeping operation. In spite of the very serious economic situation and the implementation of sanctions imposed under Security Council resolution 757 (1992), the Yugoslav Government provided facilities for the accommodation and work of UNPROFOR personnel as well as its headquarters, a logistic base, some means of transport, services at military airports free of charge, etc. This has been brought to the attention of the highest organs of the world Organization.

However, it should be noted that the United Nations has been late in paying for the services rendered by local enterprises and institutions and has even denied some of the debt.

It would, therefore, be logical to make a provision in the text of paragraph 24 of resolution 47/71 that the United Nations itself should ensure that peace-keeping operations are as cost-effective as possible (e.g. to use the existing infrastructure-office space and apartment buildings, roads, satellite communication stations, etc.).

2. Paragraphs 43 to 48 refer to the need to make greater use of the United Nations potential to deter possible aggression. In this regard, the experience of the UNPROFOR operation shows that an appropriate mechanism has not been devised to deal with the problem of aggression once the peace-keeping forces were in place in the United Nations Protected Areas (UNPAs).

During Croatian aggression in the United Nations Protected Areas, Sector South, on 22 January 1993, the dispositions of the UNPROFOR operation plan, adopted by the General Assembly at its forty-sixth session, were not applied. Namely, under the plan, "In the event of a serious deterioration of inter-ethnic relations in the UNPAs, UNPROFOR will be interposed between the two sides to prevent hostilities". It is well known that the Croatian armed forces committed an aggression on part of the territory under the protection of UNPROFOR, with

impunity, by storming UNPROFOR positions, setting fire to Serbian villages and killing civilians who were supposed to be protected.

Moreover, Croatia, as a State Member of the United Nations, has not complied with Security Council resolution 802 (1993) and withdrawn its troops behind cease-fire lines. In such and similar situations, a mechanism should be established to ensure effective implementation of the decisions adopted by the Security Council.

3. The Government of the Federal Republic of Yugoslavia has undertaken resolute steps to give effect to the provisions of paragraphs 49 and 50 of General Assembly resolution 47/71 urging that the safety and security of United Nations personnel and of humanitarian actions undertaken under United Nations auspices be ensured. This, however, was not the case with either the Croatian side or the Muslim Government of the former Bosnia and Herzegovina, whose troops killed and wounded UNPROFOR personnel, as indicated in the report of the Secretary-General of 10 February 1993.

In our opinion, the United Nations has not strongly condemned such acts nor has it applied severe measures against the parties responsible for the loss of life inflicted on UNPROFOR.

RUSSIAN FEDERATION

[Original: Russian]

[16 April 1993]

Today, when the bipolar world order has receded into the past, the United Nations at last has the real opportunity to fulfil its rightful role as the key element in the system of collective security set out in its Charter.

The proliferation of local crises, both between neighbouring States and within a single country, caused primarily by an upsurge of aggressive nationalism or other forms of intolerance, is increasingly being perceived by the international community as a threat to international and regional peace and stability. This calls for more active involvement on the part of the Organization in efforts to prevent, manage and settle conflicts.

In these circumstances, United Nations peace-keeping operations, which have proved their effectiveness as the only means of maintaining international peace and security, are becoming increasingly important. The sharp increase in the number and size of United Nations peace-keeping operations since the end of the 1980s and the transition from conventional to multi-component operations have clearly demonstrated the need to strengthen the Organization's capacities in this area in order to enable it to justify the increased confidence placed in it by a large number of States. Meanwhile, the United Nations is already working to the limit of its resources and is not in a position to meet requests to send troops and military observers to every conflict area.

In our view, the Organization's peacemaking activities could be modernized in two basic ways: by enhancing the effectiveness of the Organization's

efforts, and institutionalizing and fine-tuning a mechanism for cooperation with regional organizations that could - with the Organization's support - assume their share of the responsibility for preventing and settling conflicts in their respective regions.

In particular, it would be useful to compare national peace-keeping concepts and doctrines. The Special Committee on Peace-keeping Operations could, at its current session, establish an open-ended working group to integrate and harmonize such concepts and doctrines. For this purpose, the experience of the North Atlantic Cooperation Council's ad hoc group on peace-keeping, which has been in operation since the beginning of this year, might be useful.

Without question, considerable potential exists for enhancing the effectiveness of United Nations peace-keeping activities by expanding the Organization's role in the field of preventive diplomacy, and improving methods of collecting and analysing information, fact-finding procedures and confidence-building measures. Such measures will reinforce traditional peacemaking.

A prerequisite for the success of peace-keeping operations is the creation of the appropriate political and organizational conditions for their implementation. This presupposes, first of all, the Security Council's elaboration of a precise and clear-cut mandate, the loyal cooperation of all States Members of the United Nations (including their willingness to contribute the necessary personnel), impartiality, effective political and military leadership, and appropriate financial, material and logistical support.

Peace-keeping operations are not an end in themselves: they should be undertaken in the context of clear political tasks and should promote - not replace - a negotiated settlement between the parties to the conflict. Otherwise, the deployment of peacemaking forces runs the risk of perpetuating the conflict itself or, at best, an ambiguous and volatile state of "neither war nor peace".

Considering the complexity and diversity of the tasks of peace-keeping operations, it is becoming increasingly urgent - especially in the light of the current operation in Somalia - to study the phases in which operations are to be carried out and the interrelationship of the individual components of a unified whole. Each phase of the operation should help advance the process of a political settlement. It would then be possible, in each instance, to concentrate on the most essential task, on whose solution the whole process depends and, consequently, to help move that process forward. At the same time, this approach could help reduce the cost of the operation.

However, all this requires the solution of a number of political and conceptual problems and, at the same time, the implementation of measures to ensure the practical cooperation of States with the United Nations. First of all, consideration should be given to improving the Organization's communications and information systems (in particular, by introducing round-the-clock direct communications links between Headquarters and field operations) and the planning of and material and logistical support for operations, creating a unified training system for military and civilian

personnel, strengthening the respective Secretariat units and enhancing coordination among them and with donor countries.

Russia is ready to work together with other States and the Secretariat to determine the optimum ways of restructuring Secretariat units, including the Department of Peace-keeping Operations, in order to enhance their effectiveness while retaining all of their acquired potential. In the first stage, it would be worthwhile to complete the efforts to strengthen the group of military advisers and also to establish an information centre to maintain round-the-clock liaison with field operations. The centre could also serve as a focal point for exchanging information and preparing for United Nations interaction with the regional organizations involved in peace-keeping activities.

In our view, priorities for the restructuring of the Secretariat should be greater professionalism, preventing duplication of existing structures, and the judicious use of resources.

Given the prevailing multifaceted composition of peacemaking forces and the tendency to broaden the objectives of the operations, including their increased political significance, it is important to ensure appropriate representation of military and civilian personnel in administrative structures.

Recent events in Croatia and Cambodia, which have resulted in losses among the Blue Helmets, have once again brought the question of the safety of personnel to the forefront. The Security Council should be prepared to take the most decisive and, if necessary, stringent measures in this area. The Council's recent statement on this subject deserves full support. We propose that further consideration be given to the idea of creating a mixed group of military and civilian experts to make recommendations on ways of ensuring the safety of personnel.

One of the main areas in the further development of peacemaking is the coordination of efforts at the global and regional level, in accordance with Chapter VIII of the Charter. It is obvious that, for a future system of collective security, a strong centre - namely, the Security Council, which retains the principal responsibility for maintaining international peace and security - and strong regional links are of equal importance.

The practical implementation of the principle of decentralization of responsibility for peace-keeping is already making it possible to lighten the burden on the United Nations, including in the most critical and explosive situations. The specific actions taken by the Conference on Security and Cooperation in Europe to settle the crisis in the former Yugoslavia, seek a political solution in Nagorno Karabakh, involve the Western European Union in the enforcement of United Nations sanctions against the Federal Republic of Yugoslavia in the Adriatic, and the implementation by the countries members of the North Atlantic Treaty Organization (NATO) of the Security Council's mandate to monitor the "no-flight" zone in Bosnia and Herzegovina are steps in this direction. The Organization's efforts to support the peacemaking actions undertaken by Russia and a number of other countries of the Commonwealth of Independent States in the territory of the former USSR also deserve approval. We will welcome the further expansion of such efforts.

A key element in the success of United Nations peacemaking activities is adequate financing. The problems in this area are not new and are well known. However, today those problems must be solved as a matter of urgency. Russia is in favour of the greatest possible diversification of sources of financing (private funds, trade and banking institutions, contributions "in kind" in the form of experts, means of transport and material and logistical support), the universalization of the principle "peace has its price", and a study of ways of adjusting the existing scale of assessments for peace-keeping in order to ensure greater fairness.

Linkage of peacemaking efforts at the United Nations and regional levels would also make it possible to relieve the financial pressure on the United Nations by drawing on the resources of regional organizations.

Russia supports the measures to enhance the effectiveness of United Nations peacemaking activities. It is prepared to work closely with other Member States and the Secretary-General on the whole spectrum of issues relating to this area.

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REPLIES RECEIVED FROM GOVERNMENTS

NEW ZEALAND

[Original: English]

[26 April 1993]

Background

1. The Secretary-General, in his report entitled "An Agenda for Peace" (A/47/277-S/24111), indicated that there had been "an unconscionable increase in the number of fatalities" amongst United Nations personnel engaged in peace-keeping. He identified a "pressing need to afford adequate protection to United Nations personnel" and called on the Security Council to "gravely consider what action should be taken towards those who put United Nations personnel in danger."

2. In resolution 47/72 of 14 December 1992, the General Assembly requested the Special Committee on Peace-keeping Operations to study measures to ensure the safety of peace-keeping and other United Nations personnel.

3. Responding to the Secretary-General's request, the Security Council took up the question of measures for the protection of United Nations personnel in March 1993. The Council, in a presidential statement on 31 March 1993 (S/25493):

- Indicated that attacks and other acts of violence, whether actual or threatened, and including obstruction or detention of persons, against United Nations forces and personnel are wholly unacceptable;

- Demanded that States and other parties to various conflicts take all possible steps to ensure the protection of United Nations forces and personnel;

- Demanded that States act promptly and effectively to deter, prosecute and punish all those responsible for attacks and other acts of violence against United Nations forces and personnel;

- Recognized that particular difficulties and dangers arise where United Nations forces and personnel are deployed in situations where the State or States concerned are unable or unwilling to exercise jurisdiction in order to protect such forces;

- Indicated that attacks on United Nations forces and personnel may require the Council to take further measures to ensure the safety and security of United Nations forces and personnel;

- Requested the Secretary-General to report on measures for improving the protection of United Nations forces and personnel and invited member States to contribute comments to the Secretary-General to assist in the preparation of his report.

Comments of the Government of New Zealand

4. The following comments by New Zealand are submitted pursuant to the invitation to assist the Secretary-General contained in S/25493.

5. They are also circulated for the assistance of members of the Special Committee on Peace-keeping Operations to contribute to discussion of the Committee's mandate under General Assembly resolution 47/72.

Comments on existing arrangements for protection and safety

6. United Nations forces and personnel are normally deployed following conclusion of a standard status of forces agreement between the United Nations and the State or States concerned. (The text of the model status of forces agreement is set out in document A/45/594). These status of forces agreements draw on the 1946 Convention on the Privileges and Immunities of the United Nations. 1/ The 1947 Convention on the Privileges and Immunities of the Specialized Agencies 2/ is also applicable to certain personnel associated with peace-keeping operations. The Charter of the United Nations itself is also relevant, including Article 105.

7. The current legal framework for the protection of United Nations peace-keeping personnel is therefore a complex web of obligations set out in bilateral and multilateral agreements and customary rules of international law. From an examination of these bilateral and multilateral instruments the following general conclusions can be drawn:

- Existing obligations establish responsibility on States in all cases involving United Nations forces and personnel to ensure the prosecution of persons subject to their jurisdiction who are accused of acts of violence to or obstruction of United Nations forces and personnel;

- United Nations forces and personnel are in all cases accorded special international status;

- Members of United Nations forces and United Nations personnel are, in certain limited cases, accorded the status of internationally protected persons and are thereby covered by the [1973] Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons; 3/

- There are anomalies, inconsistencies and gaps in the legal framework;

- The obligations do not exist in a single coherent and up-to-date document.

General responsibility upon States under international law

8. The anomalies and inadequacies of current legal instruments create a serious risk that those who seek to frustrate United Nations peace-keeping operations will believe they can act with impunity and, if challenged, may try to cast doubt on the existence of applicable norms of international law.

9. As the above analysis indicates, the basic principle of State responsibility under international law for the safety and security of United Nations forces and personnel is clearly established although there are variations in the scope of this norm.

10. It is the view of the New Zealand Government that, in addition to the specific treaty-based obligations that exist in international law, there also already exist in international law parallel norms of customary international law. These oblige all States in whose territory peace-keeping forces are deployed to ensure that United Nations forces and personnel are not obstructed in carrying out their Security Council mandate. Violence and the use of force against United Nations forces and personnel would be the clearest and most graphic example of a violation of these norms and must therefore be considered as also prescribed under customary international law.

11. The view of the New Zealand Government is based not only on the existence of a network of principles and obligations contained in current multilateral and bilateral treaty instruments, but also in the practice of the United Nations, as evidenced in resolutions of the General Assembly and specific demands by the Security Council, and the practice of Member States. It is founded also on the proposition that all States Members of the United Nations undertook, in Article 25 of the Charter, to carry out in good faith the decisions of the Security Council. Where the Security Council takes action or adopts measures involving the deployment of a peace-keeping force a mandate is established. Attempts to frustrate, delay or obstruct such a mandate, including by the use of force against United Nations personnel, are inconsistent with good-faith performance of the obligations undertaken in Article 25 and, in some cases, Article 49 of the Charter.

12. In summary, New Zealand believes that the relevant principles and obligations in customary international law can be stated as follows:

- States are obliged to take the necessary measures to ensure that Security Council mandates are not obstructed or frustrated and, in particular, that United Nations personnel operating pursuant to mandates are not subject to obstruction, detention or the use of force;

- The use of force against United Nations personnel engages international legal responsibility and constitutes a violation of obligations owed collectively to all Member States and to the United Nations itself;

- States' obligations extend to taking action promptly to deter, prosecute and punish all those responsible for the use of force against United Nations personnel.

Situations where States are unable to exercise responsibility

13. The Security Council has established mandates for peace-keeping and peace enforcement in an increasing number of situations where the traditional assumptions about peace-keeping no longer apply. Thus, in Somalia there is no functioning Government to assume bilateral responsibilities under a status of

forces agreement or discharge obligations under international law. In other cases one or more of the parties to the conflict which has given rise to the United Nations deployment are not States or recognized entities capable of entering into treaty relations or assuming responsibilities under international law. In such cases the international community may not reasonably be able to expect a State to assume responsibility for the actions of such entities.

14. Where a Government is unable to carry out obligations to protect United Nations personnel, for example where it has lost control of a part of its territory or, in extreme cases, where there is no Government, the Security Council is faced with responding, in an ad hoc way, to attacks on United Nations personnel. But recent examples - resolution 804 (1993) (on Angola) and 792 (1992) (on Cambodia) - indicate the limited options at the Council's disposal. As the General Assembly recognized in resolution 47/72, the Security Council may be faced with situations where its only option is to exercise enforcement powers under Chapter VII - to take sanctions or use force in appropriate cases where safety is threatened by provocative action.

15. In essence the current situation leaves the United Nations, when confronted with attacks on its forces or personnel, with the difficult choice of either allowing its mandate to be frustrated or escalating the level of measures. Confronted with a situation in which there is no local legal system to detain, try and punish offenders, United Nations forces on the ground will need to resort to increasingly robust rules or engagement.

The case for individual responsibility

16. The view of the New Zealand Government is that the case for holding personally responsible those who violate obligations regarding the safety of United Nations forces and personnel is compelling. There is a very strong parallel with the "grave breaches" concept in international humanitarian law. The Geneva Conventions establish the principle of individual criminal responsibility, subject to universal jurisdiction, for offences in a conflict situation against civilians and military forces that are for various reasons no longer combatants. This can include wounded, prisoners and medical personnel.

17. The situation of United Nations peace-keeping and related personnel has many similarities. But United Nations forces and personnel are not covered by the Geneva Conventions. Nevertheless United Nations forces are deployed into zones of actual or potential conflict. However, peace-keeping forces are not combatants and the civilian component is certainly never combatant.

18. New Zealand believes that there is every reason for ensuring that international law protecting United Nations forces and personnel is no less effective than international law protecting the soldiers actually engaged in fighting a war. The inclusion in the United Nations legal framework of measures giving United Nations forces and civilian personnel protection equivalent to the "grave breaches regime" should therefore be a high priority.

Action required

19. The view of the New Zealand Government is that action is required at several levels within the United Nations system to enhance the safety and security of United Nations forces and personnel:

- A restatement of the United Nations expectations of Member States is urgently required. A clear, concise and coherent statement of the current rules of international law and the obligations of Member States in a single document should be of significant practical assistance;

- Every new mandate approved by the Security Council should contain provisions which draw specific attention to the statement of United Nations expectations regarding the safety and security of United Nations forces and personnel. This could take the form of an annex to the relevant resolution which could be adapted to meet specific situations. Such provisions could also be included in future status of forces agreements between the United Nations and host countries;

- Further development of the legal framework is also essential. This could include provisions to deal with jurisdiction over persons who violate norms of international law governing the protection of United Nations forces and personnel in circumstances where no State can assume responsibility for detention, trial and punishment of such violations. In such cases, if jurisdiction were able to be exercised internationally, on the basis of individual responsibility, there would be less incentive to use lethal force in the field and less need for the Security Council to consider the graver options of resort to Chapter VII action;

- Restructuring in United Nations Headquarters to establish a capability to predict, assess and respond to situations in the field likely to result in threats to United Nations personnel.

Modalities

20. New Zealand proposes that:

- A declaration be adopted, if possible jointly or in parallel, by the Security Council and the General Assembly. Such a declaration constitutes the restatement referred to in paragraph 19 above. Desirably the text should be formulated in cooperation between the Special Committee and the Security Council;

- A process be established to review and update the legal framework applicable to United Nations forces and personnel, bearing in mind the consultations outlined in paragraphs 21 to 23 below;

- A convention should be developed to codify and further develop international law relating to the protection and safety of United Nations forces and personnel dealing in its elaboration with the

principle that peace-keepers should be at least as well protected as combatants.

The problem of the non-State party to a conflict

21. Increasingly United Nations forces and personnel are deployed under mandates which require them to "keep the peace" in a situation of armed conflict between a Government and a faction or movement within a State. As discussed above there are problems in such cases in relying upon treaty-based instruments for the application of rules and norms of international law. Under classical principles of international law entities that are not States are not subjects of international law. It is simplistic to simply rely on multilateral conventions for establishing rules applicable in such conflicts. Almost by definition the entities in question will not be able to become party to such instruments and, in some cases, they may seek to exploit this situation and ignore the applicable principles of international law. The real issue is how jurisdiction may be exercised over such people in situations where States cannot impose territorial jurisdiction.

22. New Zealand believes that it is important therefore that the process of development of United Nations law in the area of protection and safety of United Nations forces and personnel not be limited to the traditional multilateral convention. Innovative processes for the development of international law are called for. In this regard New Zealand notes that the binding legal powers of the Security Council coupled with the moral authority of the General Assembly, if used in cooperation and with determination, offer the possibility, in the special case of peace-keeping forces and personnel, for the creation of very effective norms. Such a process has the potential to overcome the constraints of a purely treaty-based approach.

23. With the above in mind New Zealand suggests that the declaration which it has proposed be subject to revision and updating in the light of experience and with a view, in particular, to incorporating norms that will be applicable to and enforceable upon all the participants, whether States or other entities, in conflicts where the United Nations is called upon to keep the peace.

Notes

1/ United Nations, Treaty Series, vol. I, p. 15.

2/ Ibid., vol. 33, p. 261.

3/ Ibid., vol. 1035, p. 167.